

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, January 21, 2014 at 6:30 p.m.  
At the Village Center

Mayor Doug Tisdale called the meeting to order at 6:30 p.m.

**ROLL CALL**

Mayor Doug Tisdale, Councilors Mark Griffin, Russell Stewart, Alex Brown, Scott Roswell, Klasina VanderWerf, and Katy Brown were present on silent roll call. Also present were Deputy City Manager and Public Works Director Jay Goldie, City Attorney Linda Michow, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Parks, Trails & Recreation Administrator Ryan Berninzoni, Public Works Project and Right-of-Way Manager Ralph Mason, Sergeant Pat Wilson, and City Clerk Laura Smith.

Absent: none

**PLEDGE OF ALLEGIANCE**

Rachel Leo, Emily Tobler, Maddie Bredehoeft, Marley Bredehoeft, Emma Selner, Erin Flynn, and Annie Tobler of the St. Mary's Varsity Basketball Team led the Council in the pledge of allegiance.

**MEMBERS OF CITY BOARDS AND COMMISSIONS**

There were no reports.

**AUDIENCE PARTICIPATION PERIOD**

None

**CONSENT AGENDA**

Mayor Tisdale noted that an amended copy of Resolution 3, Series 2014 was distributed on the dais for Council's consideration.

Mayor Pro Tem Stewart removed Item 6b from the Consent Agenda.

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin to approve the following items on the Consent Agenda:

- a. Approval of Minutes – January 7, 2014

The motion carried unanimously.

**ITEMS REMOVED FROM CONSENT AGENDA**

**Resolution 3, Series 2014; Appointing Members to the Utility Line Undergrounding Study Committee**

Mayor Pro Tem Stewart asked if any Council members had other nominations for membership on the Committee.

No further nominations were given.

Councilor A. Brown moved, seconded by Mayor Pro Tem Stewart to approve Resolution 3, Series 2014.

The motion passed unanimously.

### **UNFINISHED BUSINESS**

Council Bill 21, Series 2013; A Bill for an Ordinance Amending Chapter 18 of the Municipal Code, Concerning the Adoption by Reference of the National Green Building Standard and Creation of a Building Permit Rebate Program for Compliance with the Standard (public hearing and second and final reading)

Director Zuccaro presented Council Bill 21, Series 2013 on second and final reading. He explained that the bill would adopt the National Green Building Standards as an option incentive program for new homes in the City and establish a rebate program for 10-25% of building permit fees depending on the level of certification. He noted that the program would have no City oversight, but that homeowners could submit a certificate issued by the National Association of Home Builders Research Center in order to qualify for a rebate. He suggested that Council could re-evaluate the effectiveness of the program after a year or two. He indicated that implementation of this program would complete the last remaining recommendation from the Residential Standards Development Committee. He stated that tonight's public hearing had been noticed in the December 19<sup>th</sup> and January 2<sup>nd</sup> issues of the Villager Newspaper as required when adopting a code by reference. He added that staff had contacted the architects and homebuilders who worked in the City but had not received any further comments.

Mayor Tisdale opened the Public Hearing at 6:40 p.m. Hearing no comments the Public Hearing was closed at 6:41 p.m.

Councilor Roswell thanked Director Zuccaro for his work and diligence with the bill.

Councilor VanderWerf expressed her appreciation for the financial analysis of the rebate program in the staff memo and indicated she would be interested to see many residents apply for rebates.

Councilor Griffin clarified that the bill was Council Bill 21, Series 2013.

Councilor Roswell moved, seconded by Councilor A. Brown to approve Council Bill 21, Series 2013 on second and final reading, amending Chapter 18 of the Municipal Code for the purpose of adopting by reference the 2012 National Green Building Standard and offering a building permit rebate for compliance with the Standard for the construction of new homes.

The following votes were recorded:

Katy Brown	yes
Mark Griffin	yes
Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes

Vote on the Council Bill 21-2013: 6 ayes. 0 nays. The motion carried.

Mayor Tisdale congratulated Council and thanked Director Zuccaro.

**NEW BUSINESS****Council Bill 1, Series 2014; Authorizing a Supplemental Appropriation for the Replacement of a Fuel Tank for Fiscal Year 2014 (first reading)**

Deputy City Manager/Director Goldie presented Council Bill 1, Series 2014 on first reading. He explained that late in 2013 one of the City's underground fuel tanks located just east of the Village Center ruptured. Manager Ralph Mason noticed soon after the rupture occurred and staff immediately involved the State and Seneca to remove nearly all the fuel from underground. He noted that Council Bill 1, Series 2014 approved a supplemental appropriation for a two-chambered above ground tank that would replace the ruptured underground tank. He noted that above ground tanks required more space and were not aesthetically pleasing, but were environmentally safer and a logical option for the City at this time when the future location of the Public Works Department was unknown. He indicated that the above ground fuel tank could remain at the Village Center for use by the Police Department and South Metro Fire Rescue even if the Public Works Department were to move to a different location. He noted that the above ground fuel tank would help the City to have enough fuel on site in case of a prolonged snow event. He indicated that Seneca had presented the lowest bid and that the City was also using this company for remediation of the leaked fuel. He explained that the supplemental appropriation of \$37,100 was for installation of the above ground fuel tank and the power supply.

Councilor A. Brown noted that the ruptured underground tank had held 500 gallons of fuel, and that the proposed above ground tank would hold 2500 gallons. He asked if the City would continue to use the other two underground tanks.

Deputy City Manager/Director Goldie replied that the City would continue to use the other two underground tanks as well as the proposed above ground tank. He noted that staff was considering future needs with this purchase.

Councilor Roswell asked about the warranty on the proposed tank.

Deputy City Manager/Director Goldie indicated he would include that information in the staff memo for second reading of the bill and noted that the City's contract would be included in that agenda as well.

Councilor Roswell asked if the proposed purchase would have any effect on the City's insurance through CIRSA.

Deputy City Manager/Director Goldie replied that Human Resource Analyst Kathryn Barlow was in contact with CIRSA and the City's fees may increase slightly because there would be more fuel on site, but noted that above ground tanks were safer. He indicated that he would clarify this information in the next staff memo. He added Councilor A. Brown had brought to staff's attention that the supplemental appropriation should be to the Capital Fund instead of the General Fund. He explained that account 02-411-3102 for Public Works equipment would be used and that this correction would be made to the bill for second reading.

Mayor Pro Tem Stewart indicated that the addition of the proposed tank may change the property description in the City's insurance. He asked if the City had previously had an above ground tank.

Manager Mason replied it had not.

Mayor Pro Tem Stewart noted that another option for the future of the proposed tank would be to sell it.

Councilor K. Brown asked about the safety of an above ground fuel tank if a vehicle were to run into it.

Deputy City Manager/Director Goldie explained that the proposed tank was virtually indestructible, was double walled with light weight concrete in between the walls, and would not explode from a direct hit by vehicle or airplane. In addition the city will be required to set up concrete barriers around the tank. He noted that the tank was required to be 100 feet from property lines and would be located mostly out of site to neighbors.

Mayor Tisdale asked for clarification of the December 31, 2013 date in Section 1 of the bill.

Deputy City Manager/Director Goldie explained that referenced the approval of the 2014 Budget by Council.

Councilor Griffin asked if a catch basin would be included.

Deputy City Manager/Director Goldie replied that no catch basin was required with the proposed tank.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve on first reading Council Bill 1, Series 2014 for a Supplemental Appropriation in the amount of \$37,095.43 for the purchase of an above ground fuel tank.

The following votes were recorded:

Mark Griffin	yes
Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes
Katy Brown	yes

Vote on the Council Bill 1-2014: 6 ayes. 0 nays. The motion carried.

## **REPORTS**

### **Members of City Council**

Councilor A. Brown had no report.

Councilor VanderWerf reported that the Quincy Farm Visioning Committee had met this morning and would meet a second time this month working to complete their final report, which included a power point presentation. She noted that they planned to present the report to PTRC in March prior to presenting to Council in April. She also reported that she had followed up with Carl Polhemus after the open space discussion at the last meeting, and noted that he was supportive of Council's discussion of this complex issue, but wary of a ballot measure because a failed vote may be interpreted to be anti-open space instead of anti-tax.

Councilor Roswell had no report.

Councilor K. Brown had no report.

Councilor Griffin had no report.

Mayor Pro Tem Stewart had no report.

### **Mayor's Report**

Mayor Tisdale congratulated the Denver Broncos. He indicated that Officer Chuck Parker had been sworn in as the newest member of the Police Department last week, as well as a transition celebration for John Reynolds in the Police Department. He reported that the Metro Mayors Caucus annual retreat had been held in Greenwood Village where polling on a possible state wide ballot issue for a 7/10 of 1% tax increase for transportation and transit had revealed that Colorado residents are not supportive of a tax increase. He noted that the Arapahoe County Commissioners, Mayors and Managers breakfast in Littleton had discussed aging in communities, and he had taken the opportunity to encourage Arapahoe County Commissioner Chair Nancy Doty to consider the City's open space grant request. He indicated that Pino's Pizzeria had celebrated its third anniversary on Sunday. He reported that Council would be meeting with Congresswoman Diana DeGette at Pino's on Friday January 24<sup>th</sup> at 2:30 p.m., the second time in two years that the Congressman would visit the City in an official capacity. He noted that staff was continuing work on the Public Works Facility Review.

### **City Manager & Staff**

Deputy City Manager/Director Goldie indicated that department monthly reports and unaudited financial statements were included in Council packets.

### Underground Fuel Tank Update Report

Deputy City Manager/Director Goldie reported that staff continued to work with the State and Seneca to mediate the fuel spill to the maximum extent possible. He indicated that approximately 485 of the 500 spilled gallons had been removed. He noted that staff was pleased with the timeline that spilled fuel was being removed from the water table. He explained that Seneca had drilled test wells as regulated by the State to remove spilled fuel and monitor presence of fuel. He noted that the State may require additional test wells after they review staff's report. He indicated that staff would continue mitigation until the State was satisfied that the maximum amount of spilled fuel had been removed and the situation was sufficiently mitigated. He explained that because the City was working with the State and following their guidelines, the State would reimburse the City for expenses beyond \$10,000. He noted that this was also the City's deductible through their insurance provider and that staff was evaluating whether reimbursement through the State or through insurance would be best for the City.

Councilor Griffin asked if staff would assess the vulnerability of the two remaining underground tanks.

Deputy City Manager/Director Goldie explained that it was very difficult to evaluate them, but that the State strongly recommended the City remove them as well since they were the same age as the ruptured tank, approximately 40 years old. He noted that staff would remove the two remaining tanks eventually along with the ruptured tank, which would be filled with concrete. He explained that removing the ruptured tank by itself would disrupt the area surrounding the remaining tanks and so was not recommended.

Mayor Pro Tem Stewart asked if the City could just use the above ground tank.

Deputy City Manager/Director Goldie explained that the above ground tank was not large enough for the City's needs and that the City currently uses 4,000 gallons of diesel and 4,000 gallons of unleaded fuel every 3 weeks between the Police Department, South Metro, and Public Works.

Councilor Roswell asked if the City could purchase two above ground tanks and perhaps receive a discount.

Deputy City Manager/Director Goldie explained that there was not enough space to install two above ground tanks and that a discount was not available.

Mayor Pro Tem Stewart asked if staff would investigate the cause of the rupture.

Deputy City Manager/Director Goldie replied that once the ruptured tank was removed staff could better determine the cause of the rupture. He added that staff recommended removal of all three underground tanks at the same time once the future location of the Public Works Department was determined.

Councilor VanderWerf asked what the warranty had been on the underground tanks.

Deputy City Manager/Director Goldie replied that he could research that information and provide it in the next staff memo.

Councilor Roswell asked if there was a time limitation for the City to investigate the cause of the rupture if any action was to be had.

Mayor Pro Tem Stewart asked if there was an exclusion in the City's insurance.

Deputy City Manager/Director Goldie replied that Analyst Barlow had closely examined the City's policy and staff was in contact with CIRSA to determine the City's eligibility.

Mayor Pro Tem Stewart offered to assist staff if there was a need.

Councilor Roswell asked if the City had any responsibility to work with Federal regulations for the mediation.

Deputy City Manager/Director Goldie replied that he would investigate and report back to Council.

### **City Attorney**

City Attorney Michow had no report.

### **ADJOURNMENT**

Mayor Pro Tem Stewart moved, seconded by Councilor VanderWerf to proceed into Executive Sessions

- a. pursuant to C.R.S. Sec. 24-6-402(4)(f) for the purpose of discussing personnel matters related to the annual review of the City Manager; and
- b. pursuant to C.R.S. Sec. 24-6-402(4)(a) for the purpose of discussing matters related to the acquisition of real property and pursuant to C.R.S. Sec. 24-6-402(4)(e) to develop strategy for negotiations and to instruct negotiators relating to possible acquisition of such real property; and
- c. pursuant to C.R.S. Sec. 24-6-402(4)(b) for the purpose of receiving legal advice on the requirements of the City Charter and City Code regarding expense

reimbursement and immediately upon completion of the Executive Sessions to stand adjourned.

The following votes were recorded:

Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes
Katy Brown	yes
Mark Griffin	yes

Vote on Executive Session: 6 ayes. 0 nays. The motion carried.

The regular meeting adjourned at 7:21 p.m.

The executive session adjourned at 9:44 p.m.



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Douglas M. Tisdale, Mayor

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Laura Smith, City Clerk

THE OFFICE OF THE ATTORNEY GENERAL

